REMARKS

Independent Claim 18 and dependent Claims 2-5, 7-10, 13-15, 20, 22-36, 39, 40, and 59 remain pending.

The examiner rejected at least the independent Claim 18 as being obvious over Bennett (US 6,224,482) in view of a description of a purely mechanical slot machine in a book by Bueschel, and in view of Acres (US 5,655,961). Bennett and Bueschel were previously cited, and the examiner relies upon Acres to teach a computerized jackpot system that does not award a jackpot until the jackpot is full (see top of page 5 of office action). However, what the examiner is referring to is Acres' bonus pool, which is not a jackpot, and the bonus pool funds an enhanced payout bonus mode of the Acres system, as discussed below. The examiner's repeated insistence in equating a jackpot to Applicant's "free game pot," despite the Applicant previously showing that the "free game pot" is not equitable to a jackpot, appears to be a key premise for the examiner's rejection.

The examiner has repeatedly referred to the "free game pot" in Claim 18 as a "jackpot" even though the distinction is very important to the allowability of the claims. Further, the examiner implies that the invention is basically an electronic version of the Bueschel coin diverter, even though an electronic version of Bueschel's coin diverter would have no use in a modern gaming machine that simply counts coins awarded from a single hopper to pay off a jackpot.

Since the examiner has not addressed Applicant's previous arguments, Applicant must present them again and ask that the examiner directly address Applicant's arguments.

As will be described below, it is respectfully submitted that the examiner has not fully considered the differences between Claim 18 and the combination of the prior art, even assuming the Bueschel slot machine were updated with modern electronics and combined with Bennett and Acres. The combination of the prior art is missing a non-obvious key aspect of the invention, described below.

Bennett was cited for teaching a free bonus game that can win a jackpot when the player has achieved a trigger condition. As is conventional, the jackpot is progressive and continues to be accumulated based on a fixed percentage of wagers into all machines that can win the jackpot. Continually increasing a progressive jackpot until won is the essential

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characteristic of a progressive jackpot. The examiner stated that Bennett does not disclose any dynamic allocation of the percentage of wagers used to fund the progressive jackpot.

Bueschel describes an early type of mechanical slot machine where a balance mechanism diverts all coins to a single-pay jackpot until the jackpot is full, then diverts all the coins to a different coin receptacle to pay other than the jackpot award.

Acres teaches in Fig. 34; col. 36, line 36, to col. 37, line 27; and Claim 8 a system with a bonus pool. The bonus pool accumulates at a fixed percentage. Acres states in col. 36, lines 51-53, "In step 556, the floor controller modifies a bonus pool by a predetermined percentage of all coins played." When the bonus pool achieves a certain predetermined "turn-on" level, and if any other criteria are met (e.g., time of day), the eligible slot machines enter a bonus mode, where the paytable is enhanced. During the bonus mode, any awards above the standard paytable are deducted from the bonus pool. When the bonus pool goes below a "turn-off" level, the bonus mode is terminated to allow the bonus pool to build back up (col. 36, line 61, to col. 37, line 5).

The focus of the invention in Applicant's Claim 18 is the dynamic funding of a "free game pot," where the pot is common to all the linked gaming machines participating in the free game round. All the free games (or bonus games) are funded by the "free game pot" so that the target payout percentage (i.e., long term payout divided by pay-in times 100%) of the slot machines is not affected by the free games. The free game pot is funded at dynamically changing levels depending on the level of the free game pot needed to completely fund the free game round. There is no benefit in over-funding the free game pot, since it is not like a progressive jackpot where the ever-increasing progressive jackpot is displayed to all players and draws players to the participating machines. The amount needed in the free game pot to fund a free game round will depend on the number of eligible machines and the total virtual wagers that will be used to play the free games.

It is important to realize that there is no technical reason for why the free game pot cannot use a permanently fixed percentage of the wagers to fill it, since over-filling the free game pot is not a technical problem. Any excess money in the free game pot can eventually be used to fund future free game rounds. However, by using Applicant's invention of Claim 18, there is little or no excess money in the free game pot, allowing more of the wagers to fund visible progressive jackpots to draw more players to the games. Applicant's invention

makes the most efficient use of the money diverted from the player's wagers by only funding the free game pot to that level necessary to fully fund the free game bonus round, then only allowing the free game bonus round initiation signal to be issued once it is determined that the free game pot can fully fund the free game round.

Such considerations and results could not be suggested by the funding of jackpots, which is the subject of Bennett and Bueschel, or by the fixed, predetermined percentage of wagers used to fund Acres' bonus pool.

Examiner's Argument

The examiner believes it is immaterial whether a pot is a jackpot or a free game pot. However, unlike a free game pot used for funding all free games played in a free game bonus round on multiple machines, Bueschel's "full" jackpot is a fixed amount that never changes. It is **forbidden** that the jackpot be overfunded since it is intended to be a fixed amount and not a progressive jackpot. A player wins the full jackpot with a certain combination of symbols. When the jackpot is full, Bueschel is **required** to divert the money to another receptacle since otherwise there would be no money left over to play normal awards. In contrast, in a free game pot, there is no upper limit, so there is no technical requirement to place a cap on it; the free game pot amount is not advertised to the players since it is immaterial to them. Bueschel provides no motivation for dynamically changing the funding of a free game pot.

The purpose for Applicant's invention is to avoid the financially inefficiency in excess funding of the free game pot since that excess money could have been applied elsewhere, such as to a displayed progressive jackpot that draws players to the machines (e.g., Claim 22). The reason that Bueschel stops funding the fixed jackpot is unrelated to the reason Claim 18 limits the free game pot, so there is no suggestion by Bueschel to dynamically adjust the funding of a free game pot.

Further, Bueshel's concept of quickly filling the jackpot with 100% of all coins bet then adding no more to the jackpot is inapplicable to modern linked gaming machines. Today, a fixed jackpot is simply counted out from a single coin hopper in the slot machine until the amount is paid, or an attendant is called to pay the jackpot. There is no separate jackpot receptacle requiring dynamic allocation. For linked gaming machines, a jackpot is a

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progressive jackpot that is continually incremented from a low starting amount until one player of the linked machines wins the progressive jackpot. Therefore, even a modern version of Bueshel's concept (i.e., X% allocation until a jackpot is full, then 0%) has no use in modern slot machines.

Therefore, for this additional reason, no modern slot machine designer would consider Bueschel's "dynamic allocation" to be relevant to modern slot machines, much less relevant to a free game pot.

The free game pot also is not at all like a **progressive** jackpot, since in a progressive jackpot **any** amount is adequate, from a minimum amount to many millions of dollars, and the casinos like to advertise high progressive jackpots. There is no incentive to dynamically reduce the percentage of wagers to a progressive jackpot, since high jackpots draw players to the slot machines. However, for X number of free games for Y machines, the casino must make sure that the free games are funded, but there is no benefit from overfunding the free game pot. This consideration is irrelevant to fixed and progressive jackpots and to any game played by a stand-alone machine.

The funding of jackpots is therefore not related to the Claim 18 technique of funding a free game pot.

The appreciation that a free game pot should not be continually funded by wagers is part of the non-obviousness of the invention, and the result of Applicant's invention is that the casinos do not waste financial resources. Instead of overfunding the free game pot, the excess amount may be diverted to a progressive jackpot to draw more players to the machines. The examiner is making Applicant's invention out to be a purely technical achievement (i.e., an improvement over Bueschel's mechanical jackpot allocation technique) without consideration of the unrelated motivations for the Bueschel invention (necessity) and Applicant's invention (increased financial efficiency).

Additionally, Claim 18 requires that the free game pot be adequate to fully fund the free games before the free game bonus round initiation signal is issues. In Bueschel, Bueschel can only hope that the jackpot is not awarded prior to being at its fixed level. The level of the jackpot has no effect on the outcome of the reels game.

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In **Acres**, a bonus mode, funded by an accumulated bonus pool, can only be initiated once the bonus pool has achieved a predetermined "turn-on" level. The bonus pool is accumulated at a constant percentage. This is more fully discussed below regarding Claim 59. Therefore, Acres in combination with the other cited art could not suggest Claim 18.

The previously added **Claim 59** recites:

> 59.   The method of Claim 18 wherein the level of the free game pot determined to be necessary to ensure full funding of all free games played during the free game bonus round is not predetermined but is dependent upon current conditions while paid games are being played.

In Bueschel, the amount necessary to fill the jackpot is predetermined, in direct contrast to Claim 59. In an embodiment of Claim 59, the amount determined to fully fund the free game bonus round is instantaneously calculated based on the current bets by the active players, since all free games are played with virtual bets equalling the player's prior real bet amount (page 7, lines 19-26).

The examiner cites Acres to support the rejection of Claim 59 by stating,

> Acres teaches that the casino decides the appropriate funding level. Acres also teaches adjusting the frequency of bonus games based on current play conditions.

Acres does not disclose or suggest that the "turn-on level" of the bonus pool "is not predetermined but is dependent upon current conditions while paid games are being played," as recited in Claim 59. In fact, Acres expressly states that the turn-on level is "predetermined" in col. 37, lines 7-14:

> Returning to step 558, if the bonus is currently not active, the floor controller determines at step 562 whether the bonus pool has reached a predetermined turn-on level. This turn-on level can also be set by the casino and provides a buffer above the turn-off level to insure that the bonusing does not behave erratically, i.e., bonusing rapidly switching between on and off. If the bonus pool is not above the turn-on level, bonusing is again turned off in step 552.

Even if the casino determined the turn-on level, it would still be a predetermined level. The casino operator interface for the Acres system would simply allow a casino operator to type in, on a set-up menu, a fixed turn-on level. The casino would not be reprogramming the Acres system with a dynamic allocation algorithm.

Acres also states that, even though the predetermined turn-on level is met, the bonus mode may not begin until other conditions are met such as the time of day, a minimum period of time since the last bonus mode, and a minimum level of play (col. 37, lines 16-21). These extra conditions do not affect the predetermined turn-on level however.

Accordingly, it is respectfully submitted that the examiner is using impermissible hindsight in determining that Acres' turn-on level of the bonus mode "is not predetermined but is dependent upon current conditions while paid games are being played." Therefore, Claim 59 is not suggested by the prior art.

The examiner is invited to call Applicant's attorney if there are any questions or proposed claim clarifications at 408-382-0480 x202.

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Respectfully submitted,

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